

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

MACA.No. 1121 of 2007()

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AGAINST THE ORDER DATED 28/03/2007 IN IA 6731 2006 IN
OPMV.1316/2005 of MOTOR ACCIDENT CLAIMS TRIBUNAL,
PERUMBAVOOR
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APPELLANT - PETITIONER:

**ANAS A.A., S/O. ABBAS,
AYAMANAKUDY HOUSE, CHEMBARAKKY, S.VAZHAKKULAM.**

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS - RESPONDENTS:

- 1. C.M.ARSHAD,
CHIRAYATH HOUSE, MARAMPILLY P.O.**
- 2. SUBAIR K.S., S/O. ALIYAR,
KOOVAKKADAN HOUSE, THANDAKKAD, PONJASSERY P.O.**
- 3. UNITED INDIA INSURANCE CO. LTD.,
2ND FLOOR, SOUTHERN BLOCK, VADAKKENETHIL TOWERS,
PRIVATE BUS STAND ROAD, PERUMBAVOOR.**

**BY ADV. SRI.MATHEWS JACOB (SR.)
SRI.MOHAMED USMAN**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

K. PADMANABHAN NAIR, J.

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M.A.C.A. NO. 1121 OF 2007

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Dated this the 25th day of July, 2007

J U D G M E N T

Claimant in O.P(MV) No.1316 of 2005 on the file of the Motor Accidents Claims Tribunal, Perumbavoor is the appellant. Appeal is filed against the order passed by the Tribunal dismissing I.A. No.6731 of 2006 filed by the petitioner under Section 140 of the Motor Vehicles Act claiming interim award for Rs.25,000/-. When the matter came up for admission, appellant was directed to serve a copy of the Memorandum of Appeal to the Standing Counsel for the third respondent. Accordingly Standing Counsel for R3 took notice and notices to respondents 1 and 2 were dispensed with. The only question arising for consideration in this appeal is whether the appellant is entitled to get the benefits of Section 142 of the Act.

2. The accident occurred on 3.3.2005 at Manjapra. Appellant sustained the following injuries:

“(1) Right lung contusion, (2) Right Haemo Pneumo thorax with multiple

fracture of rib, (3) Multiple fracture of pelvis and (4) Multiple fracture of T5 and T6 Vertebrae”

3. Appellant produced a disability certificate showing that he was having 17% disability on account of pelvic fracture. Tribunal, after considering the evidence, took a view that injuries mentioned in Exhibits A3 and A4 will not come within the purview of Section 142 of the Act. It was held that to grant compensation under Section 142 of the Act, there must be other injuries as mentioned in that Section. Material on record shows that appellant sustained multiple fracture to Pelvis and multiple fracture to thoracic 5 and 6 Vertebrae.

4. In Oriental Insurance Com. Ltd. v. Murugan (1994 (2) KLT 359) a Division Bench of this Court took a view that a person having fracture of 6th vertebrae will come within the purview of Section 142 of the Act and as such he is entitled to get the benefits under Section 140 of the Act. So I am of the view that the appellant also is entitled to get the same benefits.

In the result, the appeal is allowed. The order passed by

the Tribunal in I.A. No.6731 of 2006 is hereby set aside. An interim award is passed in favour of the appellant allowing him to recover a sum of Rs.25,000/-. Third respondent Insurer is directed to deposit the said amount within two months from today. If the amount is deposited, appellant can withdraw the same. While passing the final award, this amount shall be given credit to.

K. PADMANABHAN NAIR, JUDGE.

K. PADMANABHAN NAIR, J.

M.A.C.A. NO. 1121 OF 2007

J U D G M E N T

25TH JULY, 2007